



Aging Committee Public Hearing, March 8, 2022,
Testimony of AARP Connecticut regarding:

- H.B. 5310, *An Act Requiring Nursing Home Facilities to Spend at Least Ninety Per Cent of Medicaid Funding Provided by the State on Direct Care* (SUPPORT)
- H.B. 5314, *An Act Deterring Fraud and Abuse Perpetrated Against Senior Citizens* (SUPPORT)
- S.B. 260, *An Act Concerning a Prescription Drug Cost Control Board* (WOULD SUPPORT WITH CHANGES)
- S.B. 262, *An Act Concerning a Study of Homemaker-Companion Agency Issues* (SUPPORT)
 - S.B. 263, *An Act Concerning Cash Refunds for the Balance of a Gift Card* (SUPPORT)
- S.B. 267, *An Act Prohibiting Homemaker-Companion Agencies from Advertising Provisions of Health and Medical Services and Expanding Penalties for Violations of Conditions for Authorized Operation* (SUPPORT)

Good afternoon, Senator Miller, Representative Garibay, and Members of the Aging Committee:

AARP is a nonpartisan, social mission organization with an age 50+ membership of nearly 38 million nationwide, and approximately 600,000 members here in Connecticut. We are dedicated to enhancing the quality of life for all as we age, and we support policies that promote health, safety, financial security, and livable communities. We would like to offer our support for several items on your agenda today.

H.B. 5310, *An Act Requiring Nursing Home Facilities to Spend at Least Ninety Per Cent of Medicaid Funding Provided by the State on Direct Care* (SUPPORT)

Connecticut is home to some very high-quality nursing homes, but there are wide gaps between “good players” and “bad players” within the industry. A Direct Care Ratio, as outlined in H.B. 5310, would require facilities to spend at least 90% of Medicaid funding on direct care. Since 2020, three of our neighboring states – Massachusetts, New Jersey, and New York – have set requirements for the minimum percentage of nursing home revenue that must be directed toward direct care.¹ Direct care payment ratios are similar to Medical Loss Ratios (MLR) that are used to create accountability for health insurance providers. Just as Medical Loss Ratios are intended to direct health insurance premiums to claims and expenses, the goal of direct care payment ratios is to improve the overall quality of life for nursing home residents by directing more state funding to hands-on care.

Medicaid is the funding source for approximately 74% of nursing home care in Connecticut,² and Connecticut’s Medicaid program spent more than \$1.3 billion on institutional long-term care in 2021.³ According to the Department of Social Services, of nursing facility costs that were Medicaid reimbursable in FY 2018:

¹ Each state has taken a slightly different approach: MA requires 75% of all revenue (Medicaid, Medicare, and private pay) to go toward direct care; NJ’s law requires 90% of revenue to be spent on patient care (although state regulators have proposed that this be restricted to Medicaid funding only), and NY requires 70% of total revenue to go toward direct care.

² <https://fortune.com/2021/10/25/massachusetts-new-jersey-new-york-nursing-home-profits-taxpayers-medicare-medicare/>

³ <https://portal.ct.gov/dss/Health-And-Home-Care/Medicaid-Nursing-Home-Reimbursement/Medicaid-Nursing-Home-Reimbursement#:~:text=Nursing%20Facility%20Information&text=There%20are%20currently%20209%20nursing,nursing%20home%20care%20in%20Connecticut.>

³ https://portal.ct.gov/-/media/OPM/HHS/LTC_Planning_Committee/2021-Reablancing-Report-Submission_Final.pdf

- 51% went to direct costs, which include salaries for nursing personnel, related fringe benefits and nursing pool costs
- 22% went to indirect costs, including professional fees, dietary expenses, housekeeping expenses, laundry expenses, supplies related to patient care, salaries for indirect care personnel and related fringe benefits
- 14% went to administrative and general costs which include maintenance and operation of plant expenses, salaries for administrative and maintenance personnel and related fringe benefits
- 9% went to fair rent, which is defined in accordance with subsection (f) of section 17-311-52 of the regulations of Connecticut state agencies
- 4% went to capital-related costs, which include property taxes, insurance expenses, equipment leases and equipment depreciation⁴

H.B. 5310 would only apply to Medicaid revenue, while Veterans, private pay, and Medicare recipients would not be assured that 90% of their payments would go to direct care. This could lead to unintended consequences and result in unequal treatment of residents based on how their bills are paid. One way to level the playing field would be to apply a direct care payment ratio to all forms of revenue.

AARP has supported direct care payment ratio efforts in other states, and we appreciate the committee's consideration of this issue in Connecticut. We also strongly support the provisions of lines 55-64 that would require the creation of plain language summaries of annual cost reports that outline funding allocated to allowable costs and related party entities – however, we believe it might make more sense, and create more uniform summaries, if the Department of Social Services were to produce these summaries. Nursing homes provide extremely detailed cost reports to the state each year, but it is very difficult for a layperson to understand and analyze the reports. Having uniform summaries available would make it easier for advocates, policymakers, and others to better understand how nursing homes use their revenue and to identify trends amongst both high-performing and low-performing facilities.

H.B. 5314, *An Act Deterring Fraud and Abuse Perpetrated Against Senior Citizens* (SUPPORT)

Elder abuse takes many forms. It can be financial, physical, psychological, or a combination of these. It can take place at home or in an institutional setting. When it does occur, the consequences can be devastating.

At least one in ten adults over the age of 60 who live in the community experience some form of abuse each year, and the incidence of abuse is significantly higher for older adults who reside in institutions.⁵ Like other forms of abuse, this often occurs in hidden circumstances and is underreported. A study sponsored by the National Institutes of Health estimated that only 1 in 14 cases of abuse is reported. Older adults who experience elder abuse are likely to number in the hundreds of thousands.

Because elder abuse is often hidden, detecting, responding to, and preventing it requires increasing awareness. A broad range of protective services is needed to help prevent and stop abuse. The general public, financial institutions, first responders, health professionals, and

⁴ *ibid*, slides 41 and 42.

⁵ <https://ncea.acl.gov/What-We-Do/Research/Statistics-and-Data.aspx#prevalence>

others must be made aware of the signs of abuse, and mandated reporters need to know how to respond when they become aware of suspected abuse, neglect, and exploitation.

A recent audit of Protective Services for the Elderly found that “current caseloads average between 15 and 50 cases, depending on the regional office, with caseloads sometimes reaching as high as 80 cases.”⁶ The audit also found that “caseloads have hindered the ability of Protective Services for the Elderly (PSE) workers to visit with elder clients every 30 days as required,” and “regions with average caseloads of 25 cases per worker also report stronger community partnerships than regions with higher caseloads.”⁷

H.B. 5314 would help address these issues by requiring training for mandated reporters of suspect elder abuse and limiting PSE caseloads. It would also require Medicaid application assistants to disclose conflicts of interest and provide information about legal rights and protections. The Senior Fraud Task Force, which was established by the legislature in 2021 and met in late 2021 and early 2022, noted in its final report that the Medicaid application process can be very complicated, and not all Medicaid application assistants have the legal expertise necessary to answer certain questions that arise during the application process. The disclosure requirement in H.B. 5314 would alert Medicaid applicants to some of the rights and protections that might be available to them.

We would refer you to the submitted testimony of Regina Stankaitis, an AARP Connecticut volunteer, for more details about how financial exploitation impacted her life and why she supports passage of H.B. 5314 as well as S.B. 266, An Act Concerning a Registry of Persons Convicted of Financial Crimes Against Elderly Persons.

S.B. 260, *An Act Concerning a Prescription Drug Cost Control Board* (WOULD SUPPORT WITH CHANGES)

Prescription drug prices in the United States are among the highest in the world, and for older adults and others on fixed incomes, increasing prescription drug prices can lead to difficult decisions and fatal outcomes. According to a recent AARP survey, 70% of Americans ages 50-64 regularly use prescription drugs; that percentage climbs to 86% of those over age 65.⁸

Nearly 1 in 4 adults ages 50-64 said that they have not filled a prescription from their doctor in the past two years, and cost was the primary reason they cited for not getting it filled.⁹ When prescription drugs become unaffordable, people are forced to make difficult decisions. I would like to draw your attention to the written testimony of Sophia Forbes and Novlette Williams as examples of how high prescription drug prices are impacting older Connecticut residents. In her testimony, Novlette describes the experience of going to the pharmacy to pick up an expensive but medically necessary medication: “I did not have the money to pay for my medication, so I went home that day and told myself that maybe it was my time to die.”

This is not acceptable. We need to relieve consumers’ financial burdens, make it possible for patients to take their medication as prescribed, and, ultimately, save lives.

⁶ https://wp.cga.ct.gov/apa/wp-content/cgacustom/reports/performance/PERFORMANCE_Protective%20Services%20for%20the%20Elderly_20210811.pdf

⁷ *ibid*

⁸ https://www.aarp.org/content/dam/aarp/research/surveys_statistics/health/2021/drug-prices-older-americans-concerns.doi.10.26419-2Fres.00476.001.pdf

⁹ *ibid*

One way to address the high cost of prescription drugs is to create a Prescription Drug Affordability Board (PDAB). A PDAB is an independent body established by the state that evaluates drug prices and sets limits on how much certain payors, including state agencies and private insurers, will pay for high-cost prescription medications. Affordability Boards are based on the precedent of health care rate setting and state regulation of public utilities, wherein a group of appointed individuals sets limits on what buyers may pay for certain goods and services after reviewing relevant information.

On an ongoing basis, a Board, composed of persons with relevant expertise, without conflicts of interest, and appointed by elected officials, would gather information about brand-name and generic drugs sold in Connecticut. If the prices of these drugs exceeded certain thresholds, the Board would have the opportunity to conduct an affordability review, which would require manufacturers to justify the price increase or high launch price of the drug. If, after the review, which allows for public input and advice from a Stakeholder Advisory Committee, the Board determines that a given drug's price is excessive, the Board would have the authority to set a rate, upper limit, or spending target, that some or all payors in the state would have to follow.

AARP Connecticut strongly supports the creation of a PDAB in Connecticut and greatly appreciates that the Aging Committee raised this important issue. We cannot support passage of bill exactly as written, but if a few changes were made to it, we could strongly support it. Specifically, we would need to see "upper payment limit" defined in a way that clarifies that the limit applies to how much certain payors can *pay* for prescription drugs as opposed to establishing the prices at which manufacturers can *sell* prescription drugs. Another important element would be to specify exactly which payors the upper payment limit would apply to, and provide self-funded insurance plans with an opportunity to opt-in. We would be happy to provide additional details about why these changes are critical, as well as recommendations for how to strengthen the conflict-of-interest provisions and Board funding, should that be of interest to the Committee.

In recent years, four other states – Maryland, Maine, New Hampshire, and Colorado – have passed legislation to create PDABs that are empowered to establish UPLs or a spending target, and at least a dozen other states are considering similar legislation. We would welcome the opportunity to further engage with Committee members on the importance of a PDAB, why it is relevant to the lives of older Connecticut residents, and our recommendations for how to strengthen the legislation.

S.B. 262, *An Act Concerning a Study of Homemaker-Companion Agency Issues* (SUPPORT)

In recent years, Connecticut has made significant progress in providing long-term care recipients with more opportunities to receive services in the setting of their choosing, and many individuals have chosen to receive home and community-based services. Connecticut currently serves 65% of its 46,000 Medicaid long-term services and supports clients in home and community-based settings,¹⁰ and the demand for these services is expected to grow in the coming years. Policymakers need to ensure that homemaker-companion services are high-quality, that there is an appropriate response when problems arise, that agencies can recruit and train an adequate workforce, and that potential clients understand how to assess agencies for quality and available services.

¹⁰ https://portal.ct.gov/-/media/OPM/HHS/LTC_Planning_Committee/Long-Term-Care-Planning-Committee-Report---January-2021.pdf

A 2020 survey from AARP Research found that 81% of Connecticut residents would prefer to receive long-term supports and services in their own home rather than an assisted living facility or nursing home¹¹. Homemaker-companion agencies play an important role in keeping people in their homes as they age, and AARP Connecticut supports a study into how these services can be supported and improved as they continue to meet the needs of an aging population.

S.B. 263, *An Act Concerning Cash Refunds for the Balance of a Gift Card* (SUPPORT)

Consumer spending is responsible for more than two-thirds of U.S. economic output, and older adults are responsible for a disproportionate share of consumer spending. They represent a powerful force that is driving economic growth and value. This includes the products and services they purchase directly, as well as the further economic activity this spending generates. According to the AARP Longevity Economy Report, older adults contribute \$8.3 trillion to the U.S. economy every year. That represents 40 percent of the total value of goods and services provided in the U.S. during the year, also known as gross domestic product or GDP.

It is critical that we put in place policies that protect consumers and do not disadvantage them and cause financial strain. Gift cards are financial products that have already been paid for - they are the equivalent of cash. When there is very little money left, consumers shouldn't be required to buy something for potentially much more money in order to spend the small remaining balance. That is why AARP supports S.B. 263, which increases the minimum balance amount for which a consumer using a gift card may request a cash refund from three to five dollars. This will put more money in their pockets, allowing them to spend it on necessities, rather than being required to buy a product in a store that costs more than the balance of the gift card.

S.B. 267, *An Act Prohibiting Homemaker-Companion Agencies from Advertising Provisions of Health and Medical Services and Expanding Penalties for Violations of Conditions for Authorized Operation* (SUPPORT)

As noted above in our comments in support of S.B. 262, an overwhelming majority of Connecticut residents want to be able to receive long-term care in their own homes, and homemaker-companion agencies play an important role in making sure this can happen. Because so many people rely on these services, it is important that they are advertised in a way that is honest and accurate. In many instances, individuals and families do not investigate potential home care providers until they are at a moment of crisis – someone has taken a bad fall, received a difficult diagnosis, or is adapting to new physical or cognitive changes. During these times, consumers should not fall prey to deceptive advertising practices; if they do, there should be remedies available. For these reasons, we support S.B. 267.

Thank you for the opportunity to share our support and comments for many of the bills on your agenda for today.

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¹¹ <https://doi.org/10.26419/res.00351.102>